

AMEND ZONING BYLAW

ARTICLE 40 ACCESSORY APARTMENTS

RECOMMENDATION

The Planning Board unanimously recommends the motion under Article 40 be **APPROVED**.

SUMMARY

The purpose of this proposed Zoning Bylaw amendment is to streamline the requirements and standards of Section 6.7, Accessory Apartments. The Zoning Bylaw defines these as “a second dwelling unit subordinate in size to the principal dwelling unit on a lot, designed to maintain the appearance and essential character of a one-family dwelling with accessory structures.”

The Town has expressly authorized accessory apartments since 1983, resulting in approximately 200 units, or less than 2% of the total housing stock. (The majority of these were actually built prior to 1983 and legalized by an amnesty adopted at that time.) Many aspects of the current bylaw frustrate rather than further the creation of these units throughout Town, resulting in it being used only four or five times a year. A good example of this is the minimum lot size requirement, which currently exclude accessory structure apartments from about 75% of all lots and basic accessory apartments from approximately one quarter of all lots. These requirements are nearly impossible to meet in a community where approximately two-thirds of all residential lots are already non-conforming. There are similar provisions for water, sewer, parking, and new construction, all of which stymie the purpose of the policy unnecessarily.

The following standards, which all types of accessory apartments must meet, will not change:

- Owner occupancy is required (except for temporary absences);
- No more than one accessory apartment is permitted on a lot; and
- The exterior appearance of a single-family home must be maintained.

The following standards will be changed to be consistent with the standards for one-family dwellings without an accessory apartment:

- Rooming units will be permitted to a limited extent;
- Private water and sewer systems will be permitted, subject to regulation by the Board of Health;
- Parking may be located as for other one-family dwellings;
- Apartments may be located on any buildable lot; and
- Apartments may be located in an addition or in new construction.

BACKGROUND

Accessory apartments are not new to Lexington. Often referred to as in-law apartments, or accessory dwelling units (ADUs), these units provide a reliable source of affordable, conveniently located housing for many people.

In the 1980s, Lexington, like many other communities, started treating these smaller units differently than two-family homes, trying to balance the need for this type of housing with the desire to protect the character of the surrounding neighborhoods. Town Meeting first authorized accessory apartments in 1983, with further amendments in 1988 and 2005. At that time, strict

limits were placed on the creation of these apartments out of concern that too many would be created. As a result of those limits, the creation of these types of units has become onerous.

PUBLIC HEARING

A duly advertised public hearing was held on February 3, 2016 in Battin Hall, Cary Memorial Building. The Board delivered a brief presentation on the proposed motion, to which several audience members raised questions or gave comment. After these comments were discussed, the public hearing was closed. The Board has also received several email comments on the proposal, generally in favor of the article, which have been included in the Board's records. After deliberations at their meeting of February 24, the Planning Board unanimously voted to recommend the adoption of this article. The motion was re-voted on March 16, to reflect minor refinements. The minutes of these meetings may be accessed on the Town's website or in hard copy at the Planning Office.

PROPOSED MOTION

That Chapter 135 of the Code of the Town of Lexington, the Zoning Bylaw, be amended as follows:

1. Delete § 135-6.7 and replace with the following:

6.7 ACCESSORY APARTMENTS.

6.7.1 Purpose. This section authorizing the provision of accessory dwelling units is intended to:

1. Increase the number of small dwelling units available in the Town;
2. Increase the range of choice of housing accommodations;
3. Encourage greater diversity of population with particular attention to young adults and senior citizens; and
4. Encourage a more economic and energy-efficient use of the Town's housing supply while maintaining the appearance and character of the Town's one-family neighborhoods.

6.7.2 General. An accessory apartment is a second dwelling unit subordinate in size to the principal dwelling unit on a lot, located in either the principal dwelling or an accessory structure.

6.7.3 Conditions and Requirements; General. The following standards shall apply:

1. There shall be no more than one accessory apartment on a lot.
2. The owner of the property on which the accessory apartment is to be created shall occupy one or the other of the dwelling units, except for temporary absences as provided herein. For the purposes of this section, the "owner" shall be one or more individuals who constitute a family, who hold title directly or indirectly to the dwelling, and for whom the dwelling is the primary residence.
2. Temporary absence of owner. An owner of a property containing an accessory apartment who is to be absent for a period of less than two years may rent the owner's unit as well as the second unit during the temporary absence provided:

- a. Written notice thereof shall be made to the Building Commissioner on a form prescribed by him.
- b. The owner shall be resident on the property for at least two years prior to and between such temporary absences.

6.7.4 Conditions and Requirements; Exterior Appearance. The accessory apartment shall be designed to maintain the appearance and essential character of a one-family dwelling with accessory structures, subject further to the following conditions and requirements:

1. All stairways to second or third stories shall be enclosed within the exterior walls of the dwelling.
2. Where two or more entrances exist on the front facade of a dwelling, one entrance shall appear to be the principal entrance and other entrances appear to be secondary.

6.7.5 Basic Accessory Apartment. A basic accessory apartment shall be permitted if the following criteria are met:

1. The apartment shall be located in the principal dwelling.
2. The gross floor area of the apartment shall not exceed 1,000 square feet.
3. There shall not be more than two bedrooms in the apartment.

6.7.6 Expanded Accessory Apartment. The SPGA may grant a special permit for an expanded accessory apartment if the following criteria are met:

1. The gross floor area of the apartment shall not exceed 40% of the gross floor area of the dwelling, excluding areas of the structure used for parking.
2. The apartment shall be located in the principal dwelling.
3. The size of the dwelling is consistent with typical nearby one-family dwellings.

6.7.7 Accessory Structure Apartment. Notwithstanding the prohibition against having more than one dwelling on a lot, the SPGA may grant a special permit to allow the construction of an accessory apartment in an accessory structure on the same lot as a one-family dwelling if the following criteria are met:

1. The gross floor area of the apartment does not exceed 1,000 square feet.
2. The SPGA determines that the exterior appearance of the accessory structure is compatible with the principal dwelling on the same lot and with dwellings and accessory structures on adjoining lots.

2. Amend the definition of Accessory apartment in § 135-10, as detailed below:

Accessory apartment: A second dwelling unit subordinate in size to the principal dwelling unit on an ~~owner-occupied~~ lot, located in either the principal dwelling or an ~~existing~~ accessory structure. The apartment is constructed so as to maintain the appearance and essential character of a one-family dwelling and any ~~existing~~ accessory structures.

3. Delete § 135-6.9.16 and replace it with the following:

6.9.16 Accessory Apartments. The SPGA may authorize accessory apartments, as described in §6.7 of this bylaw, to be created within a site sensitive development.